

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
AS INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY
UNDER THE PATENT COOPERATION TREATY**

Application of

**Command Tooling Systems,
LLC**

International Application Number

PCT/US02/04714

International Filing Date

12 February 2002

Priority Date

14 February 2001

For

**HYDRAULICALLY ACTUATED
HOLDER**

U.S. Application Number:

unknown

Attorney Docket

84405

PETITION TO REVIVE UNDER 37 CFR 1.137(b)

MAIL STOP - PCT

Commissioner for Patents

Office of PCT Legal Administration

P.O. Box 1450

Alexandria, VA 22313-1450

Attention: Office of PCT Legal Administration

Dear Sir:

This is a Renewed Petition Under 37 CFR 1.137(b) filed in response to the Decision on Renewed Petition Under 37 CFR 1.137(b) mailed on May 6, 2004. By this renewed petition Applicant respectfully requests revival of International Patent Application PCT/US02/04714 and entry into the national stage under 35 USC §371.

Applicant acknowledges with appreciation the telephone interview granted between Examiner Bacares and applicant's attorney pertaining to the form of the petition. Applicant has made changes as indicated desirable by the Examiner. Applicant and the Examiner agreed that the Declaration submitted herewith as part of the Transmittal Letter to the United States Designated/Elected Office (DO/EO/US)

Concerning a Filing Under 35 U.S.C. 371 will be replaced at a proper time so as to reflect proper citizenship of co-inventor Johannes W. G. M. Huijbers.

Applicant filed PCT Application PCT/US02/04714 on February 12, 2002 claiming priority to a U.S. provisional application filed February 14, 2001. The thirty month time period for entry into national stages ended August 14, 2003. While it was the intention of Applicant to enter into U.S. national stage, it had not complied with the requirements of 35 USC 371 by August 14, 2003. Applicant's failure to comply was unintentional.

35 USC 371 provides that a failure to comply with the provisions of that section within the thirty month time period results in an abandonment of the international application. If the abandonment of the application was unintentional a petition to revive can be filed under 37 CFR 1.137(b). See MPEP 1893.03.

Realizing that it had failed to comply with 35 USC 371 for entering U.S. national stage, Applicant on August 25, 2003 filed a **Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)**, using PTO form PTO/SB/64. It was Applicant's intention that the international application be revived so that applicant could enter U.S. national stage. However, in addition to the above, Applicant filed PTO form PTO/SB/17 Fee Transmittal for FY 2003 and an application copy. Applicant failed to file Form PTO-1390 Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371.

On subsequent communications it became apparent that when received by the Office, the August 25, 2003 filing was divided into two parts. The application copy and the Fee Transmittal, PTO form PTO/SB/17 were made the subject of a new application file. The petition to revive was apparently made the subject of a second file.

By Decision on Petition Under 37 CFR 1.137(b) of September 30, 2003, the Commissioner dismissed Applicant's petition to revive. The petition was denied because the Office had not received the "required reply." The decision states that the "required reply" can take the form of:

1. the submission of the basic national fee in order to enter the national stage under 35 U.S.C. 371; or
2. the filing of a continuing application of the international application under 35 U.S.C. 111(a).

The Office also noted that the file contained no more than the 2-page §1.137(b) petition filed on August 25, 2003. The Office also noted that the petition fee had not been paid.

In response to the Decision on Petition Under 37 CFR 1.137(b) Applicant filed on December 19, 2003 a Reply to Decision on Petition Under 37 CFR 1.137(b). Responding to this filing on May 6, 2004 the Office issued a Decision on Renewed Petition Under 37 CFR 1.137(b) and Merging the U.S. Application Files. In that document the Office would treat the December 19, 2003 filing of Applicant as a renewed petition under 37 CFR 1.137(b). In the decision the Office dismissed the petition *without prejudice* on the grounds that the reply proffered by Applicant was not the proper "required reply." The Office invited Applicant to seek reconsideration

on the merits of its petition by submission of a Renewed Petition Under 37 CFR 1.137(b).

Accordingly Applicant herewith submits this Renewed Petition Under 37 CFR 1.137(b) and states that its intention is to revive the international application and enter national U.S. stage under 35 U.S.C. 371. Applicant submits herewith PTO form **PTO/SB/64/PCT Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b).**

In support of a grantable petition Applicant submits as follows:

(1) Petition Fee.

The Office has stated that the petition fee has been paid and accepted. However should it be determined that the fee has not been paid or that any additional fee is necessary, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0937. A duplicate copy of this sheet is enclosed.

(2) Proper Reply.

As a Proper Reply Applicant submits properly completed and executed PTO form PTO-1390 **Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371.** With this document Applicant has authorized the charging of applicable fees to Deposit Account No. 50-0937. Applicant has previously authorized the charging of fees in this matter to this deposit account but is unsure whether and to what extent the earlier

charged fees will be applicable to this filing. Any consideration of earlier charged fees will be appreciated by Applicant.

(3) Terminal Disclaimer.

No terminal disclaimer is required since this international application has an international filing date after June 8, 1995.

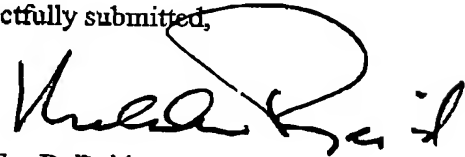
(4) Statement that the entire delay was unintentional.

Applicant states that the entire delay was unintentional.

Accordingly Applicant respectfully requests the granting of this petition and entry of the international application into U.S. national stage.

If there are any questions or concerns or actions by Applicant which will facilitate or expedite consideration of this petition, Applicant requests that the undersigned attorney for Applicant be contacted.

Respectfully submitted,



Malcolm D. Reid
USPTO Registration No. 27,065
Agent for Applicant and Inventor
612-632-3304 (voice)
612-632-4444 (fax)
malcolm.reid@gpmlaw.com

June 29, 2004
Gray Plant Mooty Mooty & Bennett, PA
PO Box 2906
Minneapolis, MN 55402-0906

GP:1584967 v3

PTO/SB/84/PCT (06-03)

Approved for use 12/31/2003. OMB 0851-0021

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number
(Optional)
84405First Named Inventor: Huijbers, Johannes W.G.M.International (PCT) Application No.: PCT/US02/04714U.S. Application No.:
(if known)Filed: 12/02/2002Title: HYDRAULICALLY ACTUATED HOLDERAttention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Proper reply
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee
☒ Small entity- fee \$ 665.00 (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))
2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of
Transmittal letter to the U.S. (Form PTO-1390) (identify type of reply):

☐ request for national stage entry
authorization for payment of all national stage entry fees
has been filed previously on _____.

☒ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/84/PCT (06-03)

Approved for use through 12/31/2003. OMB 0661-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

- ☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

6/29/04
Date

Malcolm D. Reid
Signature

612/632-3304
Telephone Number

Malcolm D. Reid
Typed or Printed Name

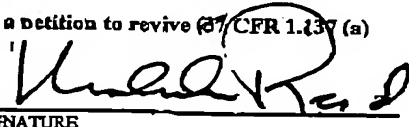
276065
Registration Number, if applicable

P.O. Box 2906
Address

Minneapolis, MN 55402-0906
Address

- Enclosures: ☐ Response
☐ Fee Payment
☐ Terminal Disclaimer
☐ _____

FORM PTO-1390 (REV. 10-2003)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTORNEY'S DOCKET NUMBER 84405	
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371					
INTERNATIONAL APPLICATION NO. PCT/US02/04714		INTERNATIONAL FILING DATE 02/12/2002		PRIORITY DATE CLAIMED 02/14/2001	
TITLE OF INVENTION HYDRAULICALLY ACTUATED HOLDER					
APPLICANT(S) FOR DO/EO/US Huibbers, et. al.					
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:					
<p>1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371.</p> <p>2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371.</p> <p>3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.</p> <p>4. <input checked="" type="checkbox"/> The US has been elected (Article 31).</p> <p>5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2))</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).</p> <p style="margin-left: 20px;">b. <input checked="" type="checkbox"/> has been communicated by the International Bureau.</p> <p style="margin-left: 20px;">c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).</p> <p>6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> is attached hereto.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).</p> <p>7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).</p> <p style="margin-left: 20px;">b. <input checked="" type="checkbox"/> have been communicated by the International Bureau.</p> <p style="margin-left: 20px;">c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.</p> <p style="margin-left: 20px;">d. <input type="checkbox"/> have not been made and will not be made.</p> <p>8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371 (c)(3)).</p> <p>9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).</p> <p>10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).</p> <p>Items 11 to 20 below concern document(s) or information included:</p> <p>11. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</p> <p>12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.</p> <p>13. <input type="checkbox"/> A preliminary amendment.</p> <p>14. <input type="checkbox"/> An Application Data Sheet under 37 CFR 1.76.</p> <p>15. <input type="checkbox"/> A substitute specification.</p> <p>16. <input type="checkbox"/> A power of attorney and/or change of address letter.</p> <p>17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825.</p> <p>18. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4).</p> <p>19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).</p> <p>20. <input checked="" type="checkbox"/> Other items or information:</p> <p style="margin-left: 20px;">1. Petition For Revival Under 37 CFR 1.137(b) (5 sheets);</p> <p style="margin-left: 20px;">2. Petition For Revival of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Form PTO/SB/64/PCT - 2 sheets)</p>					

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO. PCT/US02/04714		ATTORNEY'S DOCKET NUMBER 84405				
21. <input checked="" type="checkbox"/> The following fees are submitted: BASIC NATIONAL FEE (37 CFR 1.492(a) (1) - (5)): Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO..... \$1080.00 International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO \$920.00 International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$770.00 International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) \$730.00 International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) \$100.00 ENTER APPROPRIATE BASIC FEE AMOUNT =				CALCULATIONS PTO USE ONLY				
				\$ 730.00				
				Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(e)).		\$ 130.00		
				CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	
				Total claims	219 - 20 =	199	x \$18.00	\$3,582.00
Independent claims	16 - 3 =	13	x \$86.00	\$1,118.00				
MULTIPLE DEPENDENT CLAIM(S) (if applicable)				+ \$290.00	\$ 290.00			
TOTAL OF ABOVE CALCULATIONS =				\$5,850.00				
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$2,925.00				
SUBTOTAL =				\$2,925.00				
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$				
TOTAL NATIONAL FEE =				\$2,925.00				
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property +				\$				
TOTAL FEES ENCLOSED =				\$2,925.00				
				Amount to be refunded:	\$			
				charged;	\$			
a. <input type="checkbox"/> A check in the amount of \$ _____ to cover the above fees is enclosed. b. <input checked="" type="checkbox"/> Please charge my Deposit Account No. <u>50-0937</u> in the amount of \$ <u>2,925.00</u> to cover the above fees. A duplicate copy of this sheet is enclosed. c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>50-0937</u> . A duplicate copy of this sheet is enclosed. d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.								
NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.437 (a) or (b)) must be filed and granted to restore the application to pending status.								
SEND ALL CORRESPONDENCE TO: Customer Number 28020 Malcolm Reid Gray Plant Mooty Mooty & Bennett, P.A. P.O. Box 2906 Minneapolis, MN 55402-0906								
				 SIGNATURE				
				<u>Malcolm D. Reid</u> NAME				
				<u>27.065</u> REGISTRATION NUMBER				